

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR DECISION  
ON:

Government Code Sections 3300 through 3311, as added and amended by Statutes 1976, Chapter 465; Statutes 1978, Chapters 775, 1173, 1174, and 1178; Statutes 1979, Chapter 405; Statutes 1980, Chapter 1367; Statutes 1982, Chapter 994; Statutes 1983, Chapter 964; Statutes 1989, Chapter 1165; and Statutes 1990, Chapter 675; and,

Directed by Government Code Section 3313, as added by Statutes 2005, Chapter 72 (Assem. Bill No. 138, § 6, eff. July 19 2005).

Case No.: 05-RL-4499-01

*Peace Officers Procedural Bill of Rights*

**NOTICE OF RECONSIDERATION,  
COMMENT PERIOD AND HEARING  
SCHEDULE**

HEARING DATE: April 27, 2006

TO: League of California Cities  
California State Association of Counties  
Department of Personnel Administration  
Department of Finance  
State Controller's Office  
State Personnel Board  
Legislative Analyst  
Interested Parties  
Legislative Committees

Government Code section 3313, as added by Statutes 2005, chapter 72 (Assem. Bill No. 138, § 6, eff. July 19, 2005), requires the Commission on State Mandates to reconsider its decision regarding the *Peace Officers Procedural Bill of Rights* test claim, as specified, and make any modifications necessary.

**Administrative Record**

The administrative record for reconsideration consists of Assembly Bill 138, the original test claim and related filings and exhibits, staff analyses, decisions, parameters and guidelines, statewide cost estimate, and minutes and transcripts of the Commission on State Mandates, the Bureau of State Audits report and correspondence. The administrative record will be supplemented with all correspondence, public comments, and briefs filed pursuant to this notice of reconsideration.

The Commission will post this notice and the administrative record on its website ([www.csm.ca.gov/recon.html](http://www.csm.ca.gov/recon.html)) on October 19, 2005. When the website is updated, e-mail notices will be sent to those persons who have signed up for the electronic mailing list.

Commission members shall receive copies of the administrative record of the original test claim proceedings (including parameters and guidelines and statewide cost estimate), and all documents on reconsideration, including the draft staff analysis; comments and briefs filed by interested parties, interested persons, and affected state agencies; and the final staff analysis and exhibits.

### **Mailing List**

Commission staff has created a consolidated e-mail list for this reconsideration. This notice is being e-mailed to the original test claim mailing list and to interested parties, affected state agencies, and interested persons who have been identified by the Commission on State Mandates. On the reconsideration, there is no lead claimant and the Legislature is the requestor.

### **Public Comment**

**Request for Initial Comments/Briefing: November 16, 2005**

**Rebuttals: December 14, 2005**

Government Code section 3313 directs the Commission to reconsider the prior final decision in *Peace Officers Procedural Bill of Rights* test claim, as follows:

In the 2005-06 fiscal year the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court Decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal. 4<sup>th</sup> 859 and other applicable court decisions. If the Commission on State Mandates revises its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local government Peace Officer Procedural Bill of Rights activities occurring after the date the revised decision is adopted.

Commission staff requests that the parties file simultaneous opening briefs and rebuttal comments on each of the following issues:

- In light of the California Supreme Court decision in *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4<sup>th</sup> 859 and other applicable court decisions, is there a new program or higher level of service imposed on local governments within the meaning of section 6, article XIII B of the California Constitution, and if so, are there costs mandated by the state pursuant to Government Code section 17514 and Government Code section 17556?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

Any interested party, affected state agency, or interested person may comment, submit briefs, or correspond with the Commission on this request for initial briefing and rebuttal comments. An original and one copy, or an original and an Adobe Acrobat PDF file, shall be submitted to the

Commission. PDF files should be e-mailed to: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov). The comments will be posted on the Commission's website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2, subdivision (d).<sup>1</sup>

All filings must comply with the following requirements:

- Assertions or representations must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.
- If the comments or briefs cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

### **Draft Staff Analysis and Comments**

On or about February 16, 2006, the draft staff analysis and any supporting documentation will be posted to the Commission's website. All parties and interested parties will be notified of the website posting.

Interested parties, affected state agencies, and interested persons are invited to file comments with the Commission on the draft staff analysis by March 9, 2006.

An original and one copy, or an original and an Adobe Acrobat PDF file, shall be submitted to the Commission. PDF files should be e-mailed to: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov). The comments will be posted on the Commission's website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2, subdivision (d).

Comments on the draft staff analysis must comply with the following requirements:

- Assertions or representations must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.
- If the comments cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

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<sup>1</sup> The Commission's regulations at California Code of Regulations, title 2, section 1181 et seq were amended, effective September 6, 2005.

### **Commission Hearing**

The Commission will hear and determine this reconsideration and may adopt the proposed revised statement of decision on April 27, 2006. The final staff analysis and proposed revised statement of decision on the reconsideration will be issued and posted to the Commission's website on or about April 13, 2006. If a decision is not adopted, the proposed revised statement of decision will be set for adoption at the May 25, 2006 hearing.

The hearing procedures in article 7 of the Commission's regulations in effect at the time of the hearing will apply to this reconsideration. Since this reconsideration was directed by statute and not requested pursuant to Government Code section 17559, subdivision (a), the hearing procedures set forth in section 1188.4 do not apply in this case. (Cal. Code of Regs., tit. 2, § 1188.4, subd. (j), eff. Sept. 6, 2005.)

Representatives of interested parties and affected state agencies and the Legislature will be asked to notify the Commission staff if they wish to testify. Time limits may be imposed if necessary.

### **Parameters and Guidelines**

The Commission, if necessary, shall revise its parameters and guidelines to be consistent with this reconsideration. Any party may develop a reasonable reimbursement methodology pursuant to Government Code section 17518.5 for inclusion in the parameters and guidelines. A prehearing conference may be scheduled if requested by any party. See sections 1183.04, 1183.13, and 1187.4 of the Commission's regulations.

If you have any questions regarding this matter, please contact Assistant Executive Director, Nancy Patton, at (916) 323-8217.

Dated: October 19, 2005

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PAULA HIGASHI, Executive Director